

RESOLUTION NO. PCR-ASDP-8733-2020

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GAITHERSBURG, MARYLAND GRANTING APPROVAL OF AMENDMENT TO SCHEMATIC DEVELOPMENT PLAN ASDP-8733-2020, KNOWN AS 333 ELLINGTON BOULEVARD CONSISTING OF APPROXIMATELY 1.78 ACRES AND ZONED MIXED USE DEVELOPMENT (MXD)

ASDP-8733-2020

OPINION

Amendment to Schematic Development Plan (ASDP) application ASDP-8733-2020 ("Application") for the property located at 333 Ellington Boulevard, consisting of approximately 1.78 acres of land zoned Mixed Use Development (MXD) ("Subject Property"), has come before the City Planning Commission for approval. The Planning Commission's authority in this matter is pursuant to § 24-198(c)(2) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the Planning Commission to approve applications that materially change the orientation or siting of any buildings from an originally-approved Schematic Development Plan (SDP), upon the Mayor and City Council making a finding that the application has a minor effect and thereby directing the Planning Commission to make a final decision on the amendment in accordance with the procedure set forth in § 24-198(c)(2).

The subject Application concerns an amendment regarding the development of the Subject Property located at 333 Ellington Boulevard. The Subject Property is part of the Crown Neighborhood One development. The Application was submitted to the City Planning and Code Administration on December 29, 2020 and designated as ASDP-8733-2020.

OPERATIVE FACTS

A. Background

The Subject Property is part of the Crown development, which was annexed into the City of Gaithersburg as part of Annexation Application X-182 on August 7, 2006 by Resolution R-82-06. In addition to the annexation approval, the Mayor and City Council also established MXD (Mixed Use Development) zoning for the Crown Farm and approved the associated sketch plan by Ordinance O-8-06. The approved sketch plan, Z-310, was based upon and further defined by the approved X-182 Annexation Agreement. The Z-310 Sketch Plan and Annexation Agreement established a mix of uses, including 2,250 residential units in a variety of dwelling unit types and 320,000 square feet of commercial/retail development, divided among six Neighborhoods.

Following the purchase out of bankruptcy, the new owners VII Crown Farm Owner LLC, negotiated with the City and both parties executed a second amendment to the X-182 Annexation Agreement. VII Crown Farm Owner LLC also received approval for a new sketch plan. The Z-315 application, approved December 6, 2010 by Ordinance O-27-10 proposed a re-distribution of housing units and types, with an increase in single family units among the original neighborhoods established by the Z-310 Sketch Plan. The boundaries of the six (6) neighborhoods were changed with a noted increase to Neighborhood Two and a decrease to Neighborhood Five. The maximum cap of 2,250 overall residential units and 320,000 square feet of commercial, a City Park, and future school site on approximately 180 acres of land to be divided into six (6) neighborhoods remained unchanged from the original X-182 annexation and Z-310 Sketch Plan. This Z-315 application reflected the changes that were incorporated into the 2nd Amended X-182 Annexation Agreement between the City and VII Crown Farm Owner, LLC.

On April 4, 2011, the Mayor and City Council approved Schematic Development Plan SDP-11-001 by Resolution R-28-11 for the Crown Neighborhood One development. The plan was approved for 1,149 multi-family units, 51 townhouses and 257,400 square feet of commercial uses. On June 17, 2013, the Mayor and City Council approved Schematic Development Plan SDP-1842-2013 by Resolution R-45-13, for a conversion of multi-family rental to seventy (70) 2-over-2 condominium units. On July 15, 2015, the Mayor and City Council also approved Amendment to Schematic Development Plan ASDP-7049-2015 by Resolution PCR-ASDP-7049-2015 for 128 condo units. Finally, on September 3, 2019, the Mayor and City Council approved Schematic Development Plan SDP-8069-2018 by Resolution R-59-19 for a four -story office building with ground floor retail at 10002 Fields Road.

B. Current Application

On December 29, 2020, Bryan Condie of FRH Reality, LLC., ("Applicant") submitted the Application for an amendment to schematic development plan approval, ASDP-8733-2020. The Applicant is requesting to amend Schematic Development Plan SDP-11-001, previously approved on April 4, 2011, as noted above, to include an additional story within the overall height allowance for a multi-family building located at the corner of Diamondback Drive and Ellington Boulevard. The SDP plan specified the Subject Property as a five-story multi-family building with a maximum height of 75 feet. Due to the existing grades on the property, a small corner of the building will be partially below grade. The space that is below grade will contain uses associated with the multi-family buildings, such as a leasing office, mailroom and fitness center. Pursuant to the City Code, a basement shall be counted as a story if it is used for business or dwelling purposes. In this situation, the basement would be considered a story and thus counts towards the maximum five-stories permitted on the approved SDP. Therefore, the Applicant is requesting to amend the previously approved Schematic Development Plan to permit the additional story but without any increase in the maximum height of 75 feet.

The Application was presented to the Mayor and City Council as a courtesy review during their January 19, 2021 regular Mayor and City Council meeting, pursuant

to § 24-198(c)(2) of the City Code. During the courtesy review, the Council, as permitted by that section of the City Code, deemed the application to have a minor effect and directed the Planning Commission to hold the public hearing and make a final decision on the Application.

The Planning Commission conducted a public hearing for application ASDP-8733-2020 on February 17, 2021, allowing email and mailed public comments to be provided to the City, as the hearing was held subsequent to the Governor's Emergency Orders, dated March 5 and March 12, 2020, and renewed since that time, prohibiting large public gatherings based on the Declaration of Public Emergency regarding the Coronavirus (COVID-19) pandemic announced by the World Health Organization and the U.S. Center for Disease Control, as well as the City's March 17, 2020 closure of all City buildings to public access accord with the Governor's Emergency Orders. The public hearing was advertised in the January 28, 2021 and February 4, 2021 issue of the Washington Post. Notice of the public hearing was also advertised on the City of Gaithersburg webpage on January 28, 2021. Prior notice was also provided on January 28, 2021 on the City's webpage specifying the means by which the public could comment. The property was posted and notices were sent out on January 28, 2021. During the public hearing, eleven (11) exhibits were presented, including the Applicant's statement and proposed site plan amendment. Testimony was given by the Applicant concerning the proposed application.

There was no testimony from the public during the course of the hearing. At the conclusion of the hearing, the Planning Commission announced, by motion, the closing of their record on February 25, 2021 with final action scheduled for March 3, 2021. At the time of the Planning Commission's record closing three additional written comments in opposition of the subject application have been received into the record. In response to the comments received, the Applicant has also submitted a response letter.

C. Evaluation and Findings

The Planning Commission, upon careful review of the evidence of record, including the exhibits submitted and the Applicant's testimony, agrees with the findings, conclusions and the recommendation of approval for the Application for the Amendment to Schematic Development Plan, ASDP-8733-2020, by City Staff. The Planning Commission finds those recommendations to be well reasoned and adopts and incorporates those findings as part of this action. The Planning Commission further agrees that the procedures governing the application of the MXD Zone and approvals necessary to seek building and/or use and occupancy permits are subject to a multi-step process and that this approval is only one of several steps of the permit process.

Furthermore, the Planning Commission finds from the evidence presented that the Application for Amendment to Schematic Development Plan, ASDP-8733-2020, as currently amended, fulfills the findings required under City Code § 24-160D.10(b):

(1) The plan is substantially in accord with the approved sketch plan:

The plan is consistent with approved Sketch Plan Z-315. The sketch plan approved Neighborhood One to consist of 235,000 to 300,000 gross square feet of commercial uses, 650 to 1,200 dwelling units (single-family attached or multi-

family) and building heights up to eight (8) stories. The proposed plan is for a 5-6 story multi-family building within the maximum allowed seventy-five (75) height. The proposed change is within the maximum of eight (8) stories established by the Sketch Plan for Neighborhood One.

(2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone:

- (a) Application ASDP-8733-2020 will be developed with a multi-family building, which is in conformance with approved Sketch Plan Z-315 and Schematic Development Plan SDP-11-001.
- (b) Application ASDP-8733-2020 will continue development of the existing attractive and cohesive mixed-use community by locating new development within the existing infrastructure.
- (c) Application ASDP-8733-2020 will be developed in one phase and there will be adequate public facilities to support the overall development.
- (d) Application ASDP-8733-2020 will provide a 5-6 story multi-family building which will be compatible and harmonious with the surrounding neighborhoods and buildings.
- (e) Application ASDP-8733-2020 encourages the efficient use of land by locating the residential units near employment and retail uses and reducing reliance upon automobile use with proximity to commercial uses. Lastly, the plan encourages pedestrian and other non-vehicular systems by connecting with approved and existing sidewalks within the Crown development.

(3) The plan is in accord with the area master plan and any accompanying special condition or requirements in said master plan for the area under consideration:

The Crown development was included in the 2003 Master Plan as Special Area 4. Even though recommendations for this site was not completed, there was public input received at the charrette for the future vision of the Crown Farm development. At the time of the 2003 Master Plan, Crown Farm was not part of the City and the property owners began the process of seeking annexation into the City in 2005. The development was also included as part of the 2009 Land Use Plan as Map Designation 21. The Master Plan recommended that Crown Farm development retain the mixed use designation, and zoning remains MXD (Mixed Use Development). The Land Use Element of the City's 2009 Master Plan designated the land use for the Crown development as Mixed Use.

The amendment is in conformance with the City's area master plan by continuing development of the Crown community by incorporating residential uses within a larger mixed-used development. The proposed multi-family building will be located within existing road networks that provide adequate circulation for vehicles and pedestrians, which is envisioned in the City's master plan.

- (4) The plan will be internally and externally compatible and harmonious with existing and planned uses in the MXD zoned area and adjacent areas:

The Application is compatible and harmonious with the existing and planned land uses in the MXD zone and adjacent areas. The proposed additional story will be partially below street grade and within the maximum seventy-five (75) height permitted for the Subject Property.

- (5) That existing or planned public facilities are adequate to service the proposed development contained in the plan:

In accordance with City Code § 24-244, "Applicability," the Crown Property is not subject to the APFO requirements as it is governed by an annexation agreement in place prior to the effective date of the Article; however, the following is noted:

1. **Traffic Impacts-** The X-182 annexation agreement included a Traffic Impact Analysis, which defined intersections that may need mitigation as a result of the overall Crown development. As part of the approved Z-315 Sketch Plan, an Off-Site Road Improvement Plan was submitted and was based upon the findings in the Traffic Impact Analysis that was completed as part of annexation agreement X-182. These improvements would occur on Montgomery County and Maryland State owned and maintained roads.

Adequacy of School Capacity- The Crown development is located in the Gaithersburg Cluster of the Montgomery County Public School (MCPS) system. Students generated by this development will attend Rosemont Elementary School, Forest Oak Middle School and Gaithersburg High. No schools are currently in moratorium.

2. **Water and Sewer Services and Public Utilities-** The Crown development is currently served by water category W-1 and sewer category S-1.
3. **Fire and Emergency Services-** The Crown development is located within a ten-minute response time of the following fire stations:
 - Station 8 (Gaithersburg/Washington Grove- Montgomery Village Avenue)
 - Station 31 (Rockville)
 - Station 32 (Travilah)

- (6) That the development staging or phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development:

The construction of the building will be completed in one phase and will be connected to existing and approved facilities. Therefore, no staging or phasing is required for implementation of the plan.

(7) That the plan, if approved, would be in the public interest:

The plan advances the overall Crown development vision by providing a vibrant and walkable mixed use community. The proposed plan will provide additional residential units, which will contribute to the City's overall housing stock. The proposed 5-6 story multi-family building will be compatible and harmonious with the surrounding neighborhoods and buildings. Lastly, the plan will not have any adverse impacts to existing development and adjacent properties.

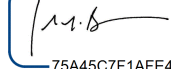
AMENDMENT TO SCHEMATIC DEVELOPMENT PLAN ASDP-8733-2020

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of Gaithersburg, Maryland, on this 3rd day of March, 2021, that the Applicant's proposed Schematic Development Plan Amendment, designated Application ASDP-8733-2020, be approved with no conditions.

ADOPTED by the Planning Commission of the City of Gaithersburg, Maryland this 3rd day of March, 2021. Commissioners Bauer, Wessell, Hopkins and Kaufman being present and voting in favor of the action.

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John Bauer, Chair
Planning Commission

THIS IS TO CERTIFY, that the foregoing Resolution was adopted by the City Council in public meeting assembled on the 3rd day of March, 2021.

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John Schlichting, Director of the
Planning and Code Administration